

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**IN RE: OAK NO 45, LLC
 45 MAIN STREET
 WINOOSKI, VT**

BOARD DECISION

The Liquor Control Board ("Board") held a Formal Hearing in Montpelier, Vermont on December 2, 2015 to consider the suspension of Licensee Oak No. 45, LLC's First and Third-Class Liquor Licenses for an alleged violation of General Regulation No. 10 for failure to remain in good standing with respect to any and all taxes payable to the Commissioner of Taxes.

Jacob A. Humbert, Esq., Assistant Attorney General, appeared on behalf of the Department of Liquor Control ("DLC"). The Licensee failed to appear. We considered testimony from Laurie Pecor, DLC administrative assistant, and Thomas Sheridan, Tax Compliance Unit, Department of Taxes.

We make the following findings, supported by credible evidence, namely the testimony of Ms. Pecor and Mr. Sheridan and exhibits admitted: Exhibit 1: October 12, 2015 Amended Notice of Hearing, Exhibit 2: USPS Tracking Information regarding Notice of Hearing and Exhibit 3: October 9, 2015 Certificate of "NOT in good standing" from Department of Taxes.

1. Licensee previously violated General Regulation No. 10. This Board takes judicial notice of its Order dated June 17, 2015, which is incorporated by reference as if set forth at length herein.
2. Licensee failed to appear for the June 17, 2015 hearing.
3. Licensee's liquor licenses were suspended effective June 17, 2015 by this Board's Order.
4. Licensee's liquor licenses were reinstated on or about June 23, 2015 upon notification from Department of Taxes that Licensee was "NOW in good standing."
5. We conclude that Licensee was properly served with notice of the December 2, 2015 hearing.
6. Licensee is not in good standing with the Department of Taxes.
7. Licensee does not dispute its tax delinquency and has not appealed its tax liability.

8. Licensee has, therefore, violated General Regulation No. 10, which states as follows:

No first or third class liquor license shall be issued to a person who is not first licensed with the Vermont Department of Taxes to collect the Vermont Rooms and Meals tax. Suspension of first or third class liquor licenses may result by action of the Liquor Control Board, after notice and hearing, upon certification to the Board by the Vermont Department of Taxes that the licensee has failed to collect the Vermont Rooms and Meals tax, has failed to pay over to the Vermont Department of Taxes the Vermont Rooms and Meals tax collected, or is not licensed with the Vermont Department of Taxes to collect the Vermont Rooms and Meals tax.

9. The Board defers to the Department of Taxes' determination whether Licensee has met all requirements to come into good standing.
10. Given Licensee's very recent violation of General Regulation No. 10 in June 2015 and having twice failed to appear before this Board, a penalty of suspension during the period that Licensee is not in good standing with the Department of Taxes is insufficient. Accordingly, in the Board's discretion, we conclude that an enhanced sanction is required.

ORDER

The Board hereby Orders that all of Licensee's liquor licenses be **SUSPENDED IMMEDIATELY**. Reinstatement may occur on the eighth day following the date that the Department of Taxes certifies to DLC that Licensee is "NOW in good standing." Additionally, Licensee shall also pay an administrative sanction of \$250.00 to DLC prior to reinstatement.

DATED at Montpelier, Vermont this 2nd day of December 2015.

VERMONT LIQUOR CONTROL BOARD

By: 
Stephanie M. O'Brien, Chair

RIGHT TO APPEAL

Within 30 days after copies of this Order have been mailed, either party may appeal to the Vermont Supreme Court by filing a Notice of Appeal with the Department of Liquor Control and paying the requisite filing fee. See 3 V.S.A. § 815(a); V.R.A.P. 4 and 13(a).